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12
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14
15 **UNITED STATES DISTRICT COURT**
16 **EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION**
17

18 J.I., an individual,

19 Plaintiff,

20 v.

21 UNITED STATES OF AMERICA;
22 UNKNOWN CUSTOMS AND BORDER
PROTECTION OFFICER 1, UNKNOWN
23 CUSTOMS AND BORDER PROTECTION
OFFICER 2, CUSTOMS AND BORDER
24 PROTECTION OFFICER JACOB, in their
individual capacities; and DOES 1-10,
25 inclusive,

26 Defendants.
27
28

Case No.

COMPLAINT FOR VIOLATIONS OF THE
FEDERAL TORT CLAIMS ACT; THE
FOURTH AND FIFTH AMENDMENTS TO
THE UNITED STATES CONSTITUTION
(*BIVENS*); ASSAULT/BATTERY; FALSE
IMPRISONMENT; INTENTIONAL
INFLECTION OF EMOTIONAL DISTRESS;
NEGLIGENCE

DEMAND FOR JURY TRIAL

Trial Date: None Set

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INTRODUCTION

1
2 1. In the summer of 2016, Plaintiff J.I.,¹ then a minor, traveled from Guatemala
3 accompanied only by her older sister to seek their mother in the United States.

4 2. After becoming lost walking in the desert at the Presidio, Texas-Ojinaga,
5 Chihuahua border, the travelers – thirsty and afraid – flagged down officers of the U.S. Customs
6 and Border Protection (“CBP”), and were taken into custody.

7 3. While they were in CBP custody, Defendant Unknown Customs and Border
8 Protection Officer 1 (“Unknown CBP Officer 1”) removed J.I. from the holding cell she had been
9 in with her sister, took her alone to a pantry-like room at the CBP field office, forced her to
10 remove her clothing and expose her breasts and genitalia, and assaulted, battered, and falsely
11 imprisoned her.

12 4. J.I. was deeply traumatized by this event. She brings this action under the Federal
13 Tort Claims Act (“FTCA”), 28 U.S.C. §§ 2671, *et seq.* for the torts of assault/battery, false
14 imprisonment, intentional infliction of emotional distress, and negligence; for violation of her
15 Fourth Amendment and Fifth Amendment rights under the United States Constitution pursuant to
16 *Bivens v. Six Unknown Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971); and for the
17 common law torts of assault, battery, false imprisonment, and intentional infliction of emotional
18 distress.

19 **JURISDICTION AND VENUE**

20 5. This action is brought pursuant to the Federal Tort Claims Act, 28 U.S.C. § 2671,
21 *et seq.* and the Fourth and Fifth Amendments to the United States Constitution. Jurisdiction is
22 proper under 28 U.S.C. §§ 1331 and 1346(b). This Court has jurisdiction over the supplemental
23 state claims pursuant to 28 U.S.C. § 1367.

24 6. Plaintiff has fully complied with the provisions of 28 U.S.C. § 2675 and fully
25 exhausted her administrative remedies prior to filing this suit. On March 21, 2017, Plaintiff

26 _____
27 ¹ J.I. is not Plaintiff’s real name. To protect her privacy, she has filed this Complaint using her
28 initials. *See* Motion to Proceed with Partial Anonymity, filed concurrently herewith.

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1 submitted a Notification of Incident and Claim for Damages, a Claim for Damage, Injury, or
2 Death, and supplemental documents to the Office of the General Counsel, U.S. Department of
3 Homeland Security and the U.S. Customs and Border Protection Office of the Chief Counsel. In a
4 letter dated September 27, 2017, U.S. Customs and Border Protection replied for all named
5 agencies and denied in full the administrative tort claim. This Complaint is filed within six
6 months of that denial and is therefore timely under 28 U.S.C. §2401(b).

7 7. Venue is proper in the Eastern District of California under 28 U.S.C. § 1402(b), in
8 that Plaintiff resides in this state and district.

9 **PARTIES**

10 8. Plaintiff J.I. is an individual residing in this district. At the time of the incident
11 from which her claims arise, J.I. was a minor.

12 9. Defendant United States of America (“U.S.”) is the proper defendant in claims
13 brought pursuant to the FTCA, as it is being sued for negligent and intentional acts of its U.S.
14 Customs and Border Protection agents/employees that were carried out during the course and
15 within the scope of their employment. The United States has waived its sovereign immunity for
16 the tortious acts or omissions of its agents/employees.

17 10. Unknown Customs and Border Protection Officer 1 was, at all times relevant
18 herein, a federal law enforcement officer of CBP, as defined under 28 U.S.C § 2680(h). Plaintiff
19 is not aware of his true name at this time. When Plaintiff ascertains this information, she will
20 amend her Complaint accordingly.

21 11. Unknown Customs and Border Protection Officer 2 (“Unknown CBP Officer 2”)
22 was, at all times relevant herein, a federal law enforcement officer of CBP, as defined under 28
23 U.S.C § 2680(h). Plaintiff is not aware of his true name at this time. When Plaintiff ascertains
24 this information, she will amend her Complaint accordingly.

25 12. Customs and Border Protection Officer Jacob (“Officer Jacob”) was, at all times
26 relevant herein, a federal law enforcement officer of CBP, as defined under 28 U.S.C § 2680(h).
27 Plaintiff is not aware of his full name at this time. When Plaintiff ascertains this information, she
28 will amend her Complaint accordingly.

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1 13. DOES 1-10 are sued herein in their individual capacities under fictitious names as
2 “Does 1-10” because their true names, titles, capacities, and/or degree of responsibility for the acts
3 alleged herein are unknown to Plaintiff at this time. When Plaintiff ascertains this information,
4 she will amend her Complaint accordingly. Does 1-10 include but are not limited to officials,
5 officers, agents, and supervisors in CBP and/or DHS. Plaintiff is informed and believes, and
6 thereon alleges, that Does 1-10 are legally liable to Plaintiff in some part for the wrongful acts and
7 omissions of which Plaintiff complains herein.

8 **FACTUAL ALLEGATIONS**

9 14. On July 5, 2016, J.I. and her sister, who were 17 and 19 years old, respectively, set
10 out alone from their village in Guatemala to seek their mother in the United States after incidents
11 in their village made them fear for their personal safety.

12 15. After traveling more than six days on buses, the girls arrived in Ojinaga, Chihuahua
13 and began walking through northern Mexico toward the U.S. border. They, along with another
14 minor, a boy, became lost on the border between Presidio, Texas and Ojinaga, Chihuahua. Thirsty
15 and afraid, on July 11, 2016, the three young people flagged down passing CBP officers.

16 16. Unknown CBP Officer 2 and Officer Jacob (hereinafter the “detaining officers”)
17 approached J.I. and the others and asked them a series of questions, including their ages, whether
18 they were immigrants, and whether they were carrying any weapons (they were not). J.I.
19 responded to their questions, informed the officers that she was 17, and told them she was not
20 carrying any weapons.

21 17. The detaining officers searched J.I. and the other two detainees by instructing them
22 to raise their hands and then shake out their clothing to demonstrate they had nothing on their
23 persons. The detaining officers took the travelers’ backpacks and placed them in a vehicle. All
24 three cooperated with the detaining officers and followed their instructions.

25 18. The detaining officers transported the three young people to a CBP field office near
26 Presidio, Texas. There, the detaining officers had the sisters remove their shoes, placed their
27 backpacks in a separate area, and put the girls in a holding cell. The minor boy was placed in a
28 different holding cell.

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1 19. The detaining officers then left the field office, leaving the sisters under the
2 supervision of Unknown CBP Officer 1.

3 20. After the detaining officers left, Unknown CBP Officer 1 came to the girls' holding
4 cell and removed J.I.'s sister from the cell. J.I. witnessed him take her sister, alone, to a separate
5 area. After some time, he returned her to the holding cell. J.I.'s sister was visibly distressed and
6 in tears, but did not have an opportunity at that time to speak to J.I., as Unknown CBP Officer 1
7 immediately removed J.I. from the cell.

8 21. Unknown CBP Officer 1 took J.I., forcibly and without her consent, to a small
9 room that appeared to be a pantry or closet. He blocked the door and would not allow J.I. to leave
10 the room, despite her protests. He told her to look at him.

11 22. Over her repeated objections, Unknown CBP Officer 1 ordered J.I. to remove her
12 clothing. When she objected, he insisted that it was his job to search her for weapons. J.I.
13 reluctantly began to unbutton her outer blouse and he told her she was being too slow, and to just
14 "pull it off." She did so unwillingly.

15 23. He then told her to lift her undershirt, leaving her exposed in her brassiere. She
16 again objected, but was afraid and complied. Unknown CBP Officer 1 then approached J.I., lifted
17 her brassiere, and touched her breasts. J.I. was very upset, and asked him why he had done that.
18 He insisted that it was his job to search her to ensure she was not hiding weapons.

19 24. Unknown CBP Officer 1 then ordered J.I. to pull down her pants. J.I. was wearing
20 two pairs of pants at the time – jeans and leggings – and pulled down only her jeans. Unknown
21 CBP Officer 1 ordered her to pull down her leggings, and then her underwear, exposing her
22 completely. Unknown CBP Officer 1 then touched J.I. between her legs.

23 25. After that, with her pants and underwear still down and her vaginal area and
24 buttocks exposed, Unknown CBP Officer 1 told J.I. to turn around with her back to him and bend
25 over. Only after she had complied with that instruction did he allow J.I. to pull up her underwear
26 and pants. At no time did J.I. consent to Unknown CBP Officer 1's actions.

27 26. Unknown CBP Officer 1 returned J.I. to the holding cell, where J.I. and her sister
28 were finally able to talk. J.I.'s sister informed her that Unknown CBP Officer 1 had done the

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1 same thing to her when he had removed her from the cell previously. The sisters were extremely
2 distraught and could not stop crying.

3 27. Unknown CBP Officer 1 tried to convince the sisters to stop crying by offering
4 them chocolate, chips, and blankets, but the girls continued crying. He then told them that if they
5 would stop crying and agree not to disclose what had happened, he would falsify their information
6 to say that J.I.'s older sister was a minor, suggesting that if they were both minors they would be
7 able to stay together during their legal processing, rather than being separated. J.I. and her sister
8 declined his offer.

9 28. Still trying to get them to calm down, Unknown CBP Officer 1 offered to allow the
10 girls to call their mother. He removed the girls from the holding cell and walked them to a desk
11 with a phone and a computer. He took down their mother's number, dialed the phone for them,
12 and put the mother on speakerphone. He then allowed J.I.'s sister to speak very briefly with their
13 mother, but when J.I.'s sister did not stop crying, he took the phone away from her and hung up.

14 29. At one point Unknown CBP Officer 1 took out a knife or razor, held it up to J.I.'s
15 sister, and said words to the effect of, "I had to search you because people carry these and it is
16 dangerous for me." Afterwards, he placed the girls back in the holding cell.

17 30. After some time, Unknown CBP Officer 1 removed the girls from the holding cell
18 and took them to a computer, where he asked them questions and took down their responses, and
19 prepared to fingerprint them. At this point, the detaining officers who had originally picked up J.I.
20 and her sister returned to the field office.

21 31. The detaining officers had male detainees with them. J.I. and her sister observed
22 that the new, male detainees were not taken to the small closet/pantry room where they had been
23 taken. Instead, the detaining officers patted them down in the presence of the girls and Unknown
24 CBP Officer 1, patting them only on the outside of their clothing, and avoiding the genital area.
25 The men were then placed in a holding cell.

26 32. While Unknown CBP Officer 1 was occupied fingerprinting J.I., J.I.'s sister
27 approached the detaining officers and asked if it was correct for Unknown CBP Officer 1 to take
28 the girls into another room and tell them to remove their clothing. One of the detaining officers

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1 (on information and belief, “Officer Jacob”) was visibly surprised and said they should not be
2 searched that way. The other detaining officer angrily accused J.I.’s sister of lying. He forcibly
3 grabbed J.I.’s sister and roughly removed her to a holding cell. Meanwhile Unknown CBP Officer
4 1, noticing this interaction, walked over and said to the detaining officers that J.I.’s sister was
5 lying.

6 33. The detaining officers took J.I. to a different office, without Unknown CBP Officer
7 1 present. Officer Jacob told J.I. that they would need her written and spoken testimony. He
8 questioned J.I. in detail about what had happened. The other detaining officer continued to accuse
9 J.I. of lying, until Officer Jacob instructed her to draw an illustration showing the location of the
10 pantry/closet where Unknown CBP Officer 1 had taken her. She demonstrated the location of the
11 room by drawing on the table with her finger. The other detaining officer then ceased accusing J.I.
12 and her sister of lying.

13 34. J.I.’s sister was questioned separately by Officer Jacob and the other detaining
14 officer.

15 35. Officer Jacob informed the sisters that an investigation would be conducted. He
16 permitted J.I. and her sister, still plainly very distraught from their experience, to sleep on a mat
17 next to his desk during the remainder of their detention at the field office.

18 36. The DHS Office of Inspector General (“OIG”) in Alpine, Texas took over the
19 investigation of the incident. J.I. and her sister provided written, sworn statements of the incidents
20 and a map detailing the location and interior of the closet/pantry in which they were imprisoned,
21 made to undress, and subjected to Unknown CBP Officer 1’s touching.

22 37. After three days, J.I. and her sister were finally released on July 14, 2016, on
23 Orders of Supervision. They arrived at their mother’s home in Fresno, California on July 16,
24 2016.

25 38. As a direct, proximate and foreseeable result of Defendants’ actions, J.I. (and her
26 sister) have suffered severe emotional distress, requiring therapeutic intervention and counseling.
27 To the present day, J.I. suffers anxiety and stress, fearing that she will run into Unknown CBP
28 Officer 1 again. She fears her schoolmates will find out about her abusive and humiliating

1 experience. Every time she undresses herself, she recalls the offensive conduct and experiences
2 emotional distress at the memory. Her emotional distress goes far beyond worry, anxiety,
3 vexation, embarrassment, or anger. As a deeply religious young woman, and a minor at the time
4 of the incident, J.I. fears that a future partner will reject her as “impure” because of the offensive
5 touching of her body by Unknown CBP Officer 1, whose conduct was beyond the bounds of
6 decency. J.I. still requires counseling as a result of her emotional distress.

7 **CLAIMS FOR RELIEF**

8 **FIRST CLAIM FOR RELIEF**
9 **(ASSAULT/BATTERY)**

10 **(Claim Under the Federal Tort Claims Act)**
11 **(Against United States of America)**

12 39. Plaintiff re-alleges and incorporates by reference the allegations contained in the
13 previous paragraphs as if fully set forth herein.

14 40. Defendant Unknown CBP Officer 1 was at all times relevant herein an employee
15 and federal law enforcement officer of the United States, acting in the scope of his employment
16 through his own actions and his directions to employees and agents, under circumstances that
17 would render the United States, if a private person, liable for the damages that his actions caused
18 Plaintiff under Texas law.

19 41. As described herein, Defendant Unknown CBP Officer 1 subjected Plaintiff to
20 intentional and offensive physical contact by, *inter alia*, removing Plaintiff to a room alone,
21 ordering Plaintiff to remove her clothes, touching her on her breasts and between her legs, and
22 ordering her to bend over and expose her buttocks and genitalia to him.

23 42. Defendant Unknown CBP Officer 1 knew or should have reasonably known
24 Plaintiff would regard the physical contact as offensive.

25 43. Defendant Unknown CBP Officer 1’s physical contact with Plaintiff was offensive,
26 humiliating, frightening and degrading, causing her to suffer damages.
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SECOND CLAIM FOR RELIEF
(FALSE IMPRISONMENT)

(Claim Under the Federal Tort Claims Act)
(Against United States of America)

44. Plaintiff re-alleges and incorporates by reference the allegations contained in the previous paragraphs as if fully set forth herein.

45. Defendants Unknown CBP Officer 1 and DOES 1-10 were at all times relevant herein federal law enforcement officers of the United States, acting in the scope of their employment through their own actions and their directions to employees and agents, under circumstances that would render the United States, if a private person, liable for the damages that their actions caused Plaintiff under Texas law.

46. As described herein, Defendants Unknown CBP Officer 1 and DOES 1-10 willfully detained Plaintiff, without Plaintiff's consent and without authority of law or legal justification, causing her to suffer damages.

THIRD CLAIM FOR RELIEF
(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)

(Claim Under the Federal Tort Claims Act)
(Against United States of America)

47. Plaintiff re-alleges and incorporates by reference the allegations contained in the previous paragraphs as if fully set forth herein.

48. Defendants Unknown CBP Officer 1 and DOES 1-10 were at all times relevant herein employees of the United States, acting in the scope of their employment through their own actions and their directions to employees and agents, under circumstances that would render the United States, if a private person, liable for the damages that their actions caused Plaintiff under Texas law.

49. As described herein, Defendants acted intentionally or recklessly with extreme and outrageous conduct to cause Plaintiff severe emotional distress.

50. The emotional distress suffered by Plaintiff as a result of Defendant's actions was severe.

FOURTH CLAIM FOR RELIEF
(NEGLIGENCE)
(Claim Under the Federal Tort Claims Act)
(Against United States of America)

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2
3
4 51. Plaintiff re-alleges and incorporates by reference the allegations contained in the
5 previous paragraphs as if fully set forth herein.

6 52. U.S. Customs and Border Protection National Standards on Transport, Escort,
7 Detention and Search (October 2015) require that Officers/Agents consider the best interest of
8 juvenile detainees at all decision points beginning at the first encounter and continuing through
9 processing, detention, transfer, or repatriation; that detainees (whether or not they are juveniles)
10 must be assessed to determine if they should be treated as “at-risk” due to their age, physical build,
11 and appearance; that “at-risk” individuals in the custody of CBP who may require additional care
12 or oversight, including specifically juveniles, must be treated with “ special concern for their
13 particular vulnerability”; and that Officers/Agents *must* provide “at-risk” individuals with
14 “heightened protection” to protect them from sexual assault. CBP policy further requires that if a
15 determination is made that a detainee may be at a high risk of being sexually abused or assaulted,
16 CBP must take actions to protect the detainee, including through increased supervision.

17 53. At all times relevant herein, J.I., was a petite, vulnerable, “at-risk” minor female.

18 54. Detaining officers owed J.I. a duty of care to see that she was not subjected to the
19 offensive and damaging search conducted by Unknown CBP Officer 1.

20 55. Detaining officers breached their duty to J.I. by leaving her in the custody of
21 Unknown CBP Officer 1 with no supervision or protection from Unknown CBP Officer 1’s
22 excessive exercise of his power and authority in the scope of his employment as a CBP officer to
23 conduct searches of detainees.

24 56. Given J.I.’s “at-risk” status and CBP policies, detaining officers’ actions in leaving
25 J.I. in the custody of Unknown CBP Officer 1 created an unreasonable risk to J.I.²

26
27 ² Indeed, CBP recognizes the potential of excessive exercise of its employees’ power to search
28 detainees by requiring employees to obtain supervisory authorization for most juvenile searches,
and by requiring cross-gender strip searches to be conducted only under exigent circumstances and
(footnote continued)

1 57. As a result of the negligence of detaining officers, Plaintiff suffered damages.

2 **FIFTH CLAIM FOR RELIEF**
3 **(VIOLATION OF THE FOURTH AMENDMENT TO THE U.S. CONSTITUTION**
4 **UNREASONABLE SEARCH)**

5 **(Claim Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*)**
6 **(Against Unknown Customs & Border Protection Officer 1 and DOES 1-10)**

7 58. Plaintiff re-alleges and incorporates by reference the allegations contained in the
8 previous paragraphs as if fully set forth herein.

9 59. With no suspicion, reasonable or otherwise, and no particularized or objective basis
10 for doing so, Unknown CBP Officer 1 subjected Plaintiff to a strip search.

11 60. Defendants acted under color of law and in the performance of their official duties
12 under federal and state laws, ordinances, or regulations in detaining and searching Plaintiff.

13 61. By, *inter alia*, removing Plaintiff to a room alone, ordering Plaintiff to remove her
14 clothes, touching her on her breasts and between her legs, and ordering her to bend over and
15 expose her buttocks and genitalia to him, Defendants violated Plaintiff's clearly established
16 constitutional right to be free from unreasonable searches and seizures.

17 62. Defendants' actions were outrageous, malicious, and morally culpable, thereby
18 entitling Plaintiff to punitive damages.

19 **SIXTH CLAIM FOR RELIEF**
20 **(VIOLATION OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION**
21 **EQUAL PROTECTION)**

22 **(Claim Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*)**
23 **(Against Unknown Customs & Border Protection Officer 1 and DOES 1-10)**

24 63. Plaintiff re-alleges and incorporates by reference the allegations contained in the
25 previous paragraphs as if fully set forth herein.

26 64. With no suspicion, reasonable or otherwise, and no particularized or objective basis
27 for doing so, Defendants subjected Plaintiff to a strip search.

28 65. Defendants acted under color of law and in the performance of their official duties

_____ with two officers present.

1 under federal and state laws, ordinances, or regulations in detaining and searching Plaintiff.

2 66. Plaintiff and her sister were each removed to a room alone with Unknown CBP
3 Officer 1, where they were made to remove their clothes and touched on their breasts and between
4 their legs.

5 67. Male detainees at the CBP field office were not taken to a room alone and were not
6 subjected to strip searches. Male detainees were patted down over their clothes, in the presence of
7 other CBP officers, and their genital areas were not exposed or touched.

8 68. Defendants' actions as described herein demonstrate gender-based animus and
9 violated Plaintiff's clearly established constitutional right to equal protection of the laws.

10 69. Defendants' actions were outrageous, malicious, and morally culpable, thereby
11 entitling Plaintiff to punitive damages.

12 **SEVENTH CLAIM FOR RELIEF**
13 **(ASSAULT/BATTERY UNDER TEXAS LAW)**

14 **(Against Unknown Customs & Border Protection Officer 1)**

15 70. Plaintiff re-alleges and incorporates by reference the allegations contained in the
16 previous paragraphs as if fully set forth herein.

17 71. As described herein, Defendant Unknown CBP Officer 1 subjected Plaintiff to
18 intentional and offensive physical contact by, *inter alia*, removing Plaintiff to a room alone,
19 ordering Plaintiff to remove her clothes, touching her on her breasts and between her legs, and
20 ordering her to bend over and expose her buttocks and genitals to him.

21 72. Defendant Unknown CBP Officer 1 knew or should have reasonably known that
22 Plaintiff would regard the physical contact as offensive.

23 73. Defendant Unknown CBP Officer 1's physical contact with Plaintiff was offensive,
24 humiliating, frightening, and degrading, causing her to suffer damages.

25 74. Defendants' actions were outrageous, malicious, and morally culpable, thereby
26 entitling Plaintiff to punitive damages.

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EIGHTH CLAIM FOR RELIEF
(FALSE IMPRISONMENT UNDER TEXAS LAW)

(Against Unknown Customs & Border Protection Officer 1)

75. Plaintiff re-alleges and incorporates by reference the allegations contained in the previous paragraphs as if fully set forth herein.

76. As described herein, Defendant Unknown CBP Officer 1 willfully detained Plaintiff, without Plaintiff's consent and without authority of law or legal justification, causing her to suffer damages.

77. Defendants' actions were outrageous, malicious, and morally culpable, thereby entitling Plaintiff to punitive damages.

NINTH CLAIM FOR RELIEF
(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS UNDER TEXAS LAW)

(Against Unknown Customs & Border Protection Officer 1)

78. Plaintiff re-alleges and incorporates by reference the allegations contained in the previous paragraphs as if fully set forth herein.

79. As described herein, Defendant acted intentionally or recklessly with extreme and outrageous conduct to cause Plaintiff severe emotional distress.

80. The emotional distress suffered by Plaintiff as a result of Defendant's actions was severe.

81. Defendants' actions were outrageous, malicious, and morally culpable, thereby entitling Plaintiff to punitive damages.

TENTH CLAIM FOR RELIEF
(NEGLIGENCE UNDER TEXAS LAW)

(Against Unknown Customs & Border Protection Officer 2 and Customs & Border Protection Officer Jacob)

82. Plaintiff re-alleges and incorporates by reference the allegations contained in the previous paragraphs as if fully set forth herein.

83. U.S. Customs and Border Protection National Standards on Transport, Escort, Detention and Search (October 2015) require that Officers/Agents consider the best interest of

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1 juvenile detainees at all decision points beginning at the first encounter and continuing through
2 processing, detention, transfer, or repatriation; that detainees (whether or not they are juveniles)
3 must be assessed to determine if they should be treated as “at-risk” due to their age, physical build,
4 and appearance; that “at-risk” individuals in the custody of CBP who may require additional care
5 or oversight, including specifically juveniles, must be treated with “ special concern for their
6 particular vulnerability”; and that Officers/Agents *must* provide “at-risk” individuals with
7 “heightened protection” to protect them from sexual assault. CBP policy further requires that if a
8 determination is made that a detainee may be at a high risk of being sexually abused or assaulted,
9 CBP must take actions to protect the detainee, including through increased supervision.

10 84. At all times relevant herein, J.I., was a petite, vulnerable, “at-risk” minor female.

11 85. Detaining officers owed J.I. a duty of care to see that she was not subjected to the
12 offensive and damaging search conducted by Unknown CBP Officer 1.

13 86. Detaining officers breached their duty to J.I. by leaving her in the custody of
14 Unknown CBP Officer 1 with no supervision or protection from Unknown CBP Officer 1’s
15 excessive exercise of his power and authority in the scope of his employment as a CBP officer to
16 conduct searches of detainees.

17 87. Given J.I.’s “at-risk” status and CBP policies, detaining officers’ actions in leaving
18 J.I. in the custody of Unknown CBP Officer 1 created an unreasonable risk to J.I.³

19 88. As a result of the negligence of detaining officers, Plaintiff suffered damages.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiff prays for relief and judgment as follows:

22 1. Awarding general and compensatory damages under the FTCA against the United
23 States in an amount to be proven at trial;

24 2. Awarding general and compensatory damages against all other Defendants in an
25 _____

26 ³ Indeed, CBP recognizes the potential of excessive exercise of its employees’ power to search
27 detainees by requiring employees to obtain supervisory authorization for most juvenile searches,
28 and by requiring cross-gender strip searches to be conducted only under exigent circumstances and
with two officers present.

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1 amount to be proven at trial;

2 3. Awarding punitive damages against individual Defendants in an amount to be
3 proven at trial;


4 4. For reasonable costs, expenses, and attorneys' fees pursuant to applicable law;

5 5. For such other relief as the Court deems just and proper.

6
7 DATED: March 15, 2018

Respectfully submitted,

8 COBLENTZ PATCH DUFFY & BASS LLP

9
10 By: 
11 _____
12 Jeffrey G. Knowles
13 Attorneys for Plaintiff J.I.


14 **DEMAND FOR JURY TRIAL**

15 Plaintiff demands a trial by jury on any issue triable by jury.

16
17 DATED: March 15, 2018

Respectfully submitted,

18 COBLENTZ PATCH DUFFY & BASS LLP

19
20 By: 
21 _____
22 Jeffrey G. Knowles
23 Attorneys for Plaintiff J.I.